

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0139-MWD-E TCEQ ID: RN103014908 CASE NO.: 32603
RESPONDENT NAME: City of Sabinal

Page 1 of 2

| | | |
|---|---|---|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: City of Sabinal WWTP, approximately 0.75 mile northwest of the intersection of U. S. Highway 90 and State Highway 127 and 200 yards west of the end of Tyler Street, on the west side of the Sabinal River, Uvalde County</p> <p>TYPE OF OPERATION: Wastewater treatment</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on October 8, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Henry Alvarado, Mayor, City of Sabinal, P.O. Box 838, Sabinal, Texas 78881-0838 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|--|---|---|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 20, 2006</p> <p>Date of NOV/NOE Relating to this Case: January 26, 2007 (NOE)</p> <p>Background Facts: This was a routine record review. Two violations were documented.</p> <p>WATER</p> <p>1) Failed to comply with the permit effluent limits [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014342001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3].</p> <p>2) Failed to monitor dissolved oxygen for the months of October 2005 through April 2006 [30 TEX. ADMIN. CODE §§ 325.125(1) and 319.4, and TPDES Permit No. WQ0014342001, Monitoring and Reporting Requirements No. 1].</p> | <p>Total Assessed: \$11,250</p> <p>Total Deferred: \$2,250 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$4,500 (remaining \$4,500 due in one monthly payment)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent began monitoring dissolved oxygen in May 2006.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014342001 and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p> |

Additional ID No(s): TX0118435



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

| | | | | | | |
|--------------|-----------------|-------------|------------------|------------|----------------|--|
| DATES | Assigned | 5-Feb-2007 | Screening | 8-Feb-2007 | EPA Due | |
| | PCW | 11-Feb-2007 | | | | |

| | |
|--|-----------------|
| RESPONDENT/FACILITY INFORMATION | |
| Respondent | City of Sabinal |
| Reg. Ent. Ref. No. | RN103014908 |
| Facility/Site Region | 13-San Antonio |
| Major/Minor Source | Minor |

| | | | |
|--|-----------------|--------------------------|--------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 32603 | No. of Violations | 2 |
| Docket No. | 2007-0139-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Merrilee Hupp |
| Multi-Media | | EC's Team | Enforcement Team 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

| | | |
|---|-------------------|---------|
| TOTAL BASE PENALTY (Sum of violation base penalties) | Subtotal 1 | \$7,500 |
|---|-------------------|---------|

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

| | | | |
|---------------------------|-----------------|--------------------------------|---------|
| Compliance History | 85% Enhancement | Subtotals 2, 3, & 7 | \$6,375 |
|---------------------------|-----------------|--------------------------------|---------|

Notes

Respondent received one Commission-issued NOV for same or similar violations, self-reported 12 effluent violations, and received an agreed order containing a denial of liability.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5 \$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$597
Approx. Cost of Compliance \$3,600

*Capped at the Total EB \$ Amount

| | | |
|-----------------------------|-----------------------|----------|
| SUM OF SUBTOTALS 1-7 | Final Subtotal | \$13,875 |
|-----------------------------|-----------------------|----------|

| | | | |
|---|------|-------------------|----------|
| OTHER FACTORS AS JUSTICE MAY REQUIRE | -19% | Adjustment | -\$2,625 |
|---|------|-------------------|----------|

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Recommended reduction in the penalty so that monthly self reported effluent violations do not overly-impact the penalty amount.

Final Penalty Amount \$11,250

| | | |
|-----------------------------------|-------------------------------|----------|
| STATUTORY LIMIT ADJUSTMENT | Final Assessed Penalty | \$11,250 |
|-----------------------------------|-------------------------------|----------|

| | | | | |
|-----------------|-----|-----------|-------------------|----------|
| DEFERRAL | 20% | Reduction | Adjustment | -\$2,250 |
|-----------------|-----|-----------|-------------------|----------|

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

| | |
|------------------------|---------|
| PAYABLE PENALTY | \$9,000 |
|------------------------|---------|

Screening Date 8-Feb-2007

Docket No. 2007-0139-MWD-E

PCW

Respondent City of Sabinal

Policy Revision 2 (September 2002)

Case ID No. 32603

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN103014908

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 13 | 65% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 85%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Respondent received one Commission-issued NOV for same or similar violations, self-reported 12 effluent violations, and received an agreed order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

Screening Date 8-Feb-2007

Docket No. 2007-0139-MWD-E

PCW

Respondent City of Sabinal

Policy Revision 2 (September 2002)

Case ID No. 32603

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN103014908

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0014342001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3

Violation Description Failed to comply with the permit effluent limits, as documented during the December 20, 2006 record review investigation (see Effluent Violations Table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0%

Matrix Notes

A simplified model was used to evaluate 5-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow, total suspended solids, and pH reported values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4

365 Number of violation days

| | | |
|----------------------------|--------------|---|
| mark only one with an x | daily | |
| | monthly | |
| | quarterly | X |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$490

Violation Final Penalty Total \$6,000

This violation Final Assessed Penalty (adjusted for limits) \$6,000

Economic Benefit Worksheet

Respondent City of Sabinal
 Case ID No. 32603
 Reg. Ent. Reference No. RN103014908
 Media Water Quality
 Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|-------------|-------------|-----|------|-------|-------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | \$3,500 | 31-Oct-2005 | 31-Oct-2007 | 2.0 | \$23 | \$467 | \$490 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Estimated costs of evaluating the causes of the effluent noncompliances and implementing necessary rehabilitation work. Date required is the date of the first noncompliance documented by the record review and final date is when compliance is expected to be achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,500

TOTAL

\$490

Screening Date 8-Feb-2007

Docket No. 2007-0139-MWD-E

PCW

Respondent City of Sabinal

Policy Revision 2 (September 2002)

Case ID No. 32603

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN103014908

Media [Statute] Water Quality

Enf. Coordinator Merrilee Hupp

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0014342001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to monitor dissolved oxygen for the months of October 2005 through April 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | | x |

Percent 5%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Failing to monitor dissolved oxygen in the effluent may result in an insignificant amount of pollutants being released, below levels protective of human health and the environment.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 7

212 Number of violation days

| | | |
|----------------------------|--------------|---|
| mark only one with an x | daily | |
| | monthly | |
| | quarterly | |
| | semiannual | |
| | annual | |
| | single event | x |

Violation Base Penalty \$3,500

Seven single events are recommended for the months of October 2005 through April 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$107

Violation Final Penalty Total \$5,250

This violation Final Assessed Penalty (adjusted for limits) \$5,250

Economic Benefit Worksheet

Respondent: City of Sabinal
Case ID No: 32603
Reg. Ent. Reference No: RN103014908
Media: Water Quality
Violation No: 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

Delayed Costs

| | | | | | | | |
|--------------------------|--|--|--|-----|-----|-----|-----|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | n/a | \$0 |

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|-------|------------|------------|-----|-----|-------|-------|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | \$100 | 1-Oct-2005 | 1-May-2006 | 1.5 | \$7 | \$100 | \$107 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Cost is estimate for the monitoring of dissolved oxygen over a seven month time period. Date required was first month when oxygen was not being monitored and final date is when compliance was achieved.

Approx. Cost of Compliance \$100 TOTAL \$107

Effluent Violations Table

| Month /Year | Daily Avg. Flow (MGD) Permit Limit =0.142 | Daily Avg. TSS Concentration (mg/L) Permit Limit = 90 | Daily Avg. TSS Loading (lbs/day) Permit Limit=106 | Daily Maximum pH (s.u.) Permit Max.=9.0 | Daily Avg. BOD ₅ Concentration (mg/L) Permit Limit =30 | Daily Avg. BOD ₅ Loading (lbs/day) Permit Limit=36 |
|----------------|--|--|--|--|--|--|
| October 2005 | c | c | c | 10.5 | c | c |
| November 2005 | c | c | c | 10.5 | 46.4 | c |
| December 2005 | c | 93 | c | 9.6 | 57 | 49.61 |
| January 2006 | c | 92.253 | c | 9.6 | 50.25 | 37.72 |
| February 2006 | 0.149 | c | 126.73 | 9.5 | 40.50 | 58.25 |
| March 2006 | 0.1513 | 97.8 | c | 9.5 | 46.2 | c |
| April 2006 | 0.145 | 90.5 | 128.19 | 9.9 | 38 | 52.79 |
| May 2006 | 0.152 | 111.4 | 139.86 | 10.2 | c | 52.17 |
| June 2006 | 0.177 | 98.75 | 170.10 | 10.5 | c | 50.21 |
| July 2006 | 0.2000 | c | 126.62 | 10.4 | c | c |
| August 2006 | 0.2123 | 152 | 182.06 | 10.5 | c | 135.25 |
| September 2006 | c | c | c | 10 | c | c |

TSS: total suspended solids
BOD₅: biochemical oxygen demand
MGD: million gallons per day
s.u.: standard unit

c: compliant
lbs/day: pounds per day
mg/L: milligrams per liter

Compliance History

Customer/Respondent/Owner-Operator: CN600339402 City of Sabinal Classification: AVERAGE Rating: 1.47

Regulated Entity: RN103014908 CITY OF SABINAL WWTP Classification: AVERAGE Site Rating: 2.90

ID Number(s): WASTEWATER PERMIT WQ0014342001
WASTEWATER PERMIT TX0118435
WASTEWATER PERMIT WQ0014342001

Location: LOCATED .75 MILES NW OF THE INTERSECTION OF U.S. HWY 90 AND STATE HWY 127 AND 200 YARDS WEST OF THE END OF TYLER STREET, ON THE WEST SIDE OF THE SABINAL RIVER IN UVALDE COUNTY Rating Date: September 01 06
Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: February 14, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 14, 2002 to February 14, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Merrilee Hupp Phone: 512-239-4490

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- N/A Effective Date: 08/30/2004 ADMINORDER 2003-0082-MWD-E
Classification: Moderate
- Citation: 30 TAC Chapter 305, SubChapter F 305.125(2)
TWC Chapter 26 26.121(a)[G]
- Description: Failure to renew TPDES Permit No. 10604-001 prior to its expiration on May 1, 2001.
Classification: Moderate
- Citation: TWC Chapter 26 26.121(a)[G]
Description: Failure to properly dispose of sludge generated from the drying beds.
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Description: Allowed continued operation and discharges from the Facility following the May 1, 2001 expiration date of TPDES Permit No. 10604-001.
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|---|------------|-------------------|
| 1 | 03/08/2002 | (326868) |
| 2 | 04/02/2002 | (326871) |
| 3 | 05/03/2002 | (IE0018780001001) |
| 4 | 05/20/2002 | (326875) |

| | | |
|----|------------|----------|
| 5 | 05/20/2002 | (326884) |
| 6 | 06/06/2002 | (326878) |
| 7 | 07/17/2002 | (326881) |
| 8 | 09/19/2002 | (326887) |
| 9 | 10/16/2002 | (326890) |
| 10 | 12/20/2002 | (326895) |
| 11 | 02/03/2003 | (326898) |
| 12 | 02/24/2003 | (326865) |
| 13 | 03/11/2003 | (326869) |
| 14 | 05/06/2003 | (326872) |
| 15 | 06/16/2003 | (326876) |
| 16 | 06/16/2003 | (326879) |
| 17 | 07/09/2003 | (326882) |
| 18 | 08/13/2003 | (326885) |
| 19 | 09/15/2003 | (326888) |
| 20 | 10/02/2003 | (326891) |
| 21 | 11/05/2003 | (326893) |
| 22 | 12/08/2003 | (326896) |
| 23 | 01/15/2004 | (326899) |
| 24 | 02/23/2004 | (326866) |
| 25 | 03/16/2004 | (427419) |
| 26 | 04/16/2004 | (326873) |
| 27 | 05/10/2004 | (366764) |
| 28 | 06/07/2004 | (366765) |
| 29 | 07/15/2004 | (366766) |
| 30 | 08/09/2004 | (366767) |
| 31 | 09/16/2004 | (366768) |
| 32 | 10/12/2004 | (366769) |
| 33 | 11/15/2004 | (389898) |
| 34 | 12/18/2004 | (389899) |
| 35 | 01/11/2005 | (389900) |
| 36 | 02/14/2005 | (427417) |
| 37 | 03/10/2005 | (427418) |
| 38 | 04/18/2005 | (427420) |
| 39 | 05/10/2005 | (427421) |
| 40 | 06/14/2005 | (392962) |
| 41 | 06/14/2005 | (427422) |
| 42 | 07/08/2005 | (380785) |
| 43 | 07/12/2005 | (447476) |
| 44 | 09/01/2005 | (447477) |
| 45 | 10/12/2005 | (492320) |
| 46 | 12/12/2005 | (492321) |
| 47 | 02/21/2006 | (492318) |
| 48 | 02/21/2006 | (492322) |
| 49 | 03/08/2006 | (492319) |
| 50 | 04/26/2006 | (506200) |
| 51 | 05/15/2006 | (506201) |
| 52 | 06/13/2006 | (506202) |
| 53 | 07/12/2006 | (528448) |
| 54 | 09/08/2006 | (528449) |
| 55 | 09/12/2006 | (528450) |
| 56 | 09/13/2006 | (509074) |
| 57 | 01/26/2007 | (515623) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/08/2005 (380785)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)

Rqmt Prov: PERMIT G. Reporting Requirements

Description: Failure of the permittee to submit the annual sludge reports, by September 1, as required in the permittee's wastewater permit.

Self Report? NO

Classification: Moderate

| | | | |
|--------------|--|-----------------|----------|
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Rqmt Prov: | PERMIT Effluent Limitations and Monitoring Req. | | |
| Description: | Failure of the facility to properly measure the amount of flow from the treatment plant. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.4 | | |
| Description: | Failure of the permittee to perform pH and Dissolved Oxygen monitoring of the effluent leaving the final pond. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 319, SubChapter A 319.7(c) | | |
| Description: | Failure of the facility to accurately complete the Discharge Monitoring Reports (DMR's). | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Rqmt Prov: | PERMIT OTHER REQUIREMENTS NOs 5 , 9 | | |
| Description: | Failure of the permittee to comply with OTHER REQUIREMENTS 5 and 9 as listed in the City of Sabinal's wastewater discharge permit. | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 317 317.3[G] | | |
| Description: | Failure of the permittee to ensure that the North lift station is intruder resistant. | | |
| Date: | 11/30/2005 (492321) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 12/31/2005 (492322) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 01/31/2006 (492318) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 02/28/2006 (492319) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 03/31/2006 (506200) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 04/30/2006 (506201) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 05/31/2006 (506202) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 06/30/2006 (528448) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date: | 08/31/2006 (528450) | | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| | TWC Chapter 26 26.121(a)[G] | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

Date 10/31/2005
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/30/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SABINAL
RN103014908**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0139-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Sabinal ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 0.75 mile northwest of the intersection of U.S. Highway 90 and State Highway 127 and 200 yards west of the end of Tyler Street, on the west side of the Sabinal River, Uvalde County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about January 31, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eleven Thousand Two Hundred Fifty Dollars (\$11,250) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The City has paid Four Thousand Five Hundred Dollars (\$4,500) of the administrative penalty and Two Thousand Two Hundred Fifty Dollars (\$2,250) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the City to pay all or part of the deferred penalty.

The remaining amount of Four Thousand Five Hundred Dollars (\$4,500) of the administrative penalty shall be payable in one monthly payment which shall be paid within 30 days after the effective date of this Agreed Order. If the City fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installment, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the City to meet the payment schedule of this Agreed Order constitutes the failure by the City to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City began monitoring dissolved oxygen in May 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have:

1. Failed to comply with the permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014342001, Effluent Limitations and Monitoring Requirements Nos. 1 and 3, as documented during a record review conducted on December 20, 2006 and shown in the following table:

| Month /Year | Daily Avg. Flow (MGD) | Daily Avg. TSS Concentration (mg/L) | Daily Avg. TSS Loading (lbs/day) | Daily Maximum pH (s.u.) | Daily Avg. BOD ₅ Concentration (mg/L) | Daily Avg. BOD ₅ Loading (lbs/day) |
|----------------|-----------------------|-------------------------------------|----------------------------------|-------------------------|--|---|
| | Permit Limit =0.142 | Permit Limit = 90 | Permit Limit=106 | Permit Max.=9.0 | Permit Limit =30 | Permit Limit=36 |
| October 2005 | c | c | c | 10.5 | c | c |
| November 2005 | c | c | c | 10.5 | 46.4 | c |
| December 2005 | c | 93 | c | 9.6 | 57 | 49.61 |
| January 2006 | c | 92.253 | c | 9.6 | 50.25 | 37.72 |
| February 2006 | 0.149 | c | 126.73 | 9.5 | 40.50 | 58.25 |
| March 2006 | 0.1513 | 97.8 | c | 9.5 | 46.2 | c |
| April 2006 | 0.145 | 90.5 | 128.19 | 9.9 | 38 | 52.79 |
| May 2006 | 0.152 | 111.4 | 139.86 | 10.2 | c | 52.17 |
| June 2006 | 0.177 | 98.75 | 170.10 | 10.5 | c | 50.21 |
| July 2006 | 0.2000 | c | 126.62 | 10.4 | c | c |
| August 2006 | 0.2123 | 152 | 182.06 | 10.5 | c | 135.25 |
| September 2006 | c | c | c | 10 | c | c |

TSS: total suspended solids
BOD₅: biochemical oxygen demand
MGD: million gallons per day
s.u.: standard unit

c: compliant
lbs/day: pounds per day
mg/L: milligrams per liter

- Failed to monitor dissolved oxygen for the months of October 2005 through April 2006, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.4, and TPDES Permit No. WQ0014342001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on December 20, 2006.

III. DENIALS

The City generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Sabinal, Docket No. 2007-0139-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification with the effluent limits of TPDES Permit No. WQ0014342001 as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to The City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Sabinal
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 10/18/07

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date JULY 27, 2007

HENRY ALVARADO
Name (Printed or typed)
Authorized Representative of
City of Sabinal

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

